



PSAB Supplement 14

Payroll

**MANUAL OF PROCEDURES
PSAB SUPPLEMENT 14
PAYROLL**

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**MANUAL OF PROCEDURES
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INTRODUCTION

Salaries, wages, and related expenses constitute the major portion of the expenditures for school districts and charter schools. Accounting for payroll activities is among the most important business functions performed by a school district or charter school. It is imperative that payroll processing comply with state and federal payroll regulations as well as maintain strict internal controls and close supervision.

A sound accounting and payroll system can provide numerous benefits including:

- Providing internal controls and safeguards,
- Providing timely reporting on the status of funds,
- Allowing systematic disbursements to maximize available funds and provide accurate encumbrances enabling staff to monitor the availability of budget.

PURPOSE

6.20.2.18 NMAC PAYROLL

The local board shall establish written payroll policies and procedures which comply with state and federal regulations on payroll as well as maintaining strict internal controls, close supervision and financial accounting in accordance with GAAP. *Requirements in this rule are delineated in the "Policies and Controls" section below.*

- ✓ School districts shall maintain and have available for inspection employee record documentation to include employment contracts, contracts for stipends, personnel/ payroll action form, certification records, employment eligibility verification (Form I-9), federal and state withholding allowance certificates, pay deduction authorizations, pay or position change notices, educational retirement association plan application, and direct deposit authorizations.

LOCAL POLICIES AND CONTROLS

Local School Boards of Education and Governing Councils shall establish written payroll policies and procedures to include a checklist of payroll related functions that shall include but not be limited to the following functions. The absence of adequate controls will often lead to a high frequency of errors and on occasion, fraud. Ingenious embezzlement schemes have involved the issuance of checks to fictitious employees, duplicate paychecks, paychecks to persons who have been terminated or who have voluntarily quit, and overpayments to existing personnel. A lack of communication between business office personnel and/or functions may exist and this invites problems with accuracy and compliance with the law. Some functions listed below are assigned to the Payroll Department while others may be assigned to the Human Resource Department depending on the size and complexity of the district or charter school.

DIVISION OF DUTIES

- ✓ Maintain segregation of duties in payroll processing. The same employee may not be assigned responsibilities for payroll preparation, payroll authorization and warrants/checks distribution.
- ✓ The processing of Personnel Action Forms and payroll processing are separate functions.
- ✓ Although most transactions are automatically posted to the general ledger when the payroll is generated, payroll processing and the posting of any manual entries or changes to employee records on the financial management system shall have proper authorizations and involve more than one individual. Changes, revisions or errors shall be thoroughly authorized and documented for auditing purposes.
- ✓ Payroll staff does not certify their own time.
- ✓ Cross checking by two or more staff occurs when payroll is processed to minimize posting errors and assure accurate reconciliation.

PAYROLL AND HUMAN RESOURCE INTERNAL CONTROLS

- ✓ The district/charter school has written personnel policies that are communicated to all employees.
- ✓ The district/charter school has an employee handbook which is updated annually.
- ✓ Salary, increment, stipend and wage schedules to be approved by the local school board.

- ✓ Access to payroll files is secure and limited.
- ✓ Training is provided to hourly employees and documented for time recording procedures including overtime.
- ✓ Time cards are completed in ink or electronic time keeping devices are used.
- ✓ Time is recorded to the nearest 1/4 hour.
- ✓ Overtime is properly authorized.
- ✓ Time cards are properly coded.
- ✓ Time cards are always signed and in ink.
- ✓ A procedure exists to verify reported time or changes. Time clock, supervisor signature, etc.
- ✓ Excessive overtime is investigated.
- ✓ Procedures exist to ensure the reasonableness of paychecks.
- ✓ Records and procedures exist for timekeeping and attendance.
- ✓ Time cards are submitted daily to the appropriate supervisor and used as a source document for the production of daily reports. Other methods to track time may involve an electronic sign in for employees.
- ✓ The payroll roster is verified that all employees actually exist. Verification is performed periodically and at random.
- ✓ Procedures exist to ensure that payroll reports are reviewed and preserved according to the software documentation and company policy.
- ✓ Performance reviews are actually conducted periodically on all employees.
- ✓ Performance reviews are actually documented and on file in the employee file.
- ✓ All employees have proper and adequate training, including Safety Training and Material Safety Data Sheets.
- ✓ All employees are made aware of district/charter school policies and procedures including their responsibilities and expectations.

- ✓ Employment applications are used for all applicants. Use of special software may be required for the application process.
- ✓ References and other sources as appropriate are contacted for all potential new hires.
- ✓ Background checks are performed on all individuals hired for sensitive positions.
- ✓ Employees have adequate supervision. Employees with inadequate supervision are identified and administration makes necessary changes in order to make informed decisions related to evaluating employees' performance.
- ✓ Adequate staffing is maintained and the district or charter school regularly reviews staffing needs.
- ✓ Employee job descriptions are periodically updated should new rules or requirements for employment be added or changed.
- ✓ Employees should sign job descriptions to acknowledge responsibilities or expectations of the position.
- ✓ A Personnel Action Form or PAR may be used to document all new hires, changes in employment, salary, wage rates, and payroll deductions.
- ✓ All Personnel Action Forms are properly authorized, approved, and documented.
- ✓ Procedures exist to record vacation, personal and sick time.
- ✓ All necessary changes to payroll records are maintained on the financial management system at least monthly, including vacation leave, sick leave, etc.
- ✓ Vacation, personal and sick accruals are updated at least monthly.
- ✓ Vacation, personal and sick accruals are periodically verified in writing with the employees.
- ✓ Year-end balances of payroll records are reconciled on the financial management system after each payroll is generated. Carry forward totals are verified and properly recorded.
- ✓ Procedures exist to ensure district or charter school assets are returned by terminating employees. This check out routine whereby former employees shall sign out and meet district or charter school requirements for separation.
- ✓ Adequate control over the processing, storing, and issuing of warrants/checks.

- ✓ A system established and maintained which accounts for the accrual and use of vacation and sick leave for all employees. The Board of Education or Governing Council shall establish policies pertaining to leave that shall include prescribed accrual rates, maximum amounts allowed to be accrued, and disposition of accrued time upon termination of employee.

INTERNAL CONTROLS FOR PAYROLL

The following functions are recommended to ensure that the payroll process - practices and procedures - are strictly followed to avoid any impropriety. Selected control functions may be the responsibility of the Human Resource Department. For small to medium size districts many of the tasks listed below may be handled by payroll personnel.

The district or charter school has written personnel policies adopted by the local school board or governing council that are communicated to all employees. This practice should be not only available to all employees upon hiring, but posted to the local website. Procedures shall be established in the areas of cash receipts, cash disbursements, accounts payable and the *payroll function* which prevent a person or persons from sole access to both assets (cash, equipment, vehicles, etc.) and accounting records. Reference PSAB Supplement 2, Internal Controls. The following controls shall be in place to ensure proper payroll program management:

- ✓ An employee handbook is made available with payroll policies updated annually.
- ✓ Access to payroll files is secure and limited.
- ✓ Pay calculations are double checked for accuracy by persons other than the primary payroll staff.
- ✓ Conflict of Interest policies are enforced.
- ✓ Nepotism policies are enforced.
- ✓ The district/charter school should limit the issuance of manual checks.
- ✓ Training is periodically provided to personnel who process payroll to assure compliance with state and regulatory requirements.
- ✓ The payroll journal is verified that all employees actually exist. Personnel perform random review periodically to verify amounts and the status of employees.

- ✓ Procedures exist to ensure that payroll reports are reviewed and preserved according to district/charter school administrative procedures PSAB Supplement 21, Records Retention and Disposition.
- ✓ Undelivered paychecks are returned to the business office for safe keeping and processed accordingly.

Policies and controls listed above may be assigned to either payroll or human resource staff with the ultimate goal of safeguarding district or charter school assets and recognizing that controls must exist to meet the requirements set forth in governmental accounting standards. Reference PSAB Supplement 2, Internal Controls.

PAYROLL PREPARATION AND REPORTING

The following serves as a guide for preparation of payroll, and related reports either manually or by computer.

1. *Prepare employee earnings from contracts and approved time reports.* Payroll staff enters all necessary data including time sheets changes to insurances or wages, etc. Contracts (explained later in this supplement) are established at the beginning of each year for those individuals hired or rehired by the district or charter school.
2. *Complete the payroll register.* Employee records shall have accurate information including positioning on pay schedules, location, full time equivalent (FTE), and account codes for budgetary posting purposes, additional pay, and personal information such as social security numbers addresses, or special pay considerations/deductions. This could include data such as insurances, garnishments, dues, or memberships, etc. These deductions are typically driven or allowed by union negotiations, insurance companies, or local Board or Council policies.
3. *Encumber salaries.* The financial management system shall be programmed so that the gross contract pay for each employee is initially encumbered against applicable expenditure account codes and liquidated after each payroll that is generated for that employee.
4. *Disburse salary.* Payrolls are generated on a predetermined schedule that is prepared each fall and communicated to all employees. Salaries or payroll vouchers are distributed manually or electronically according to district or charter school administrative policies and procedures.
5. *Post the payroll to the financial management systems (FMS) general ledger.* Payroll staff process payroll following an established routine that includes a reconciliation process involving the financial management system and the bank account where

vouchers will be presented for payment. See Payroll Clearing Account - methods discussed in this supplement.

6. Disburse employee deductions in a timely manner:

- *Federal Withholding Taxes.* Total amount deducted as entered must equal total amount deducted per payroll summary. These totals must reconcile to the total payroll amount that is generated and subject to Federal Withholding Taxes.
- *State Withholding Taxes.* Total amount deducted as entered on Taxation and Revenue Form CRS-1 must equal total amount deducted per payroll summary. These totals must reconcile to the total payroll that is generated.
- *FICA/Medicare.* (Federal Insurance Contributions Act (FICA)). Calculate FICA and Medicare separately. Both are calculated on gross salaries less IRS 125 plan deductions These totals must reconcile to the total gross generated – that gross that is subject to FICA/Medicare taxes.

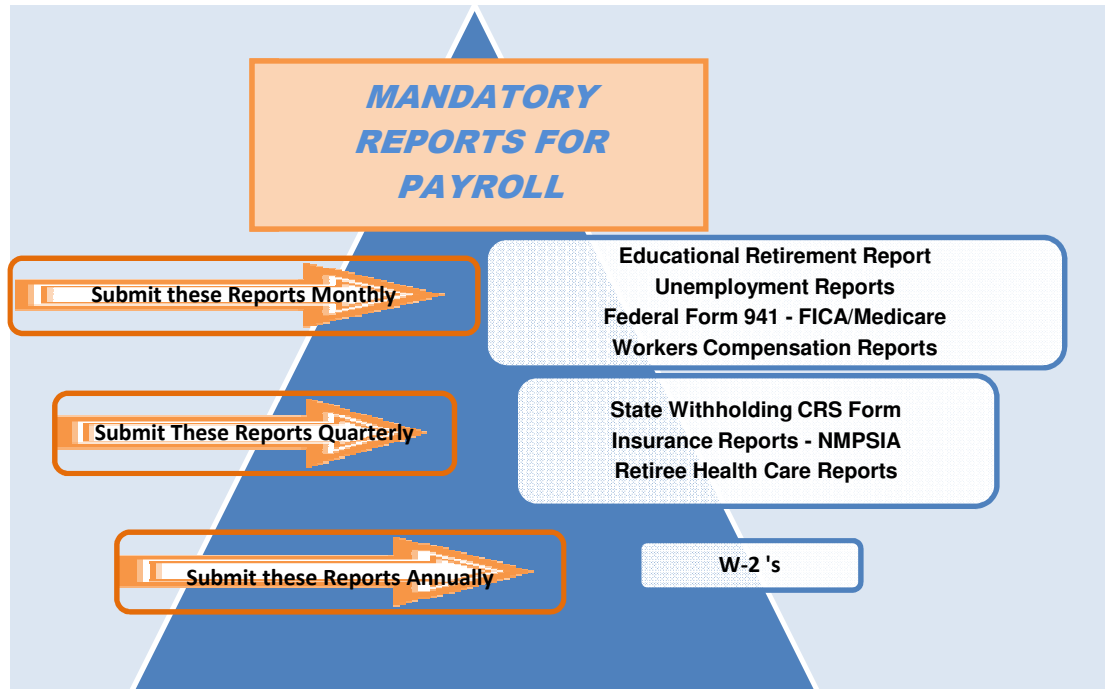


FOR THE DEDUCTIONS ABOVE, CONSIDER THE FOLLOWING:

Refer to Internal Revenue Service regulations for specifics on due dates for requirements related to federal and state reporting. Staff shall annually compile and prepare W-2 information. Grand total wages must reconcile to payroll totals and quarterly payroll reports. *Late filings will result in interest and/or penalties.*

- *New Mexico Educational Retirement/fee.* Deposits are due by the 10th of each month. Two summaries are prepared at the end of each quarter from monthly payroll summaries. Matching percentage is computed at the bottom by fund, sub fund, function, object and job class. Total amount deducted as entered on invoice must equal total amount deducted per payroll summary This total must reconcile to the total payroll that is generated and subject to the calculation of New Mexico Educational Retirement deductions. Reference Section 22-1-1 to 22-11-53 NMSA 1978. The Educational Retirement Act and/or www.nmerb.org for filing instructions, job categories, etc.
- *Retiree Health Care (RHC).* Using the form from NM RHC enter gross salaries subject to RHC from payroll reconciliations, amount deducted from employees, and employer contribution Use "Rate of Contribution" to calculate employers portion and use "Employee's Share Rate" for the employee contribution. Total amount deducted as entered on invoice must equal total amount deducted per payroll summary. This must reconcile each month to the totals posted to the general ledger. (The gross salary amount subject to Retiree Health Care is the same amount that is subject to Educational Retirement).

- *Insurances* - Reconciliation is completed on the copy of the invoice. The total amount due is multiplied to equal employers contribution. The total amount due minus employer's contribution equals amount deducted. The total amount deducted entered on the invoice must equal total amount deducted per payroll summary. This total must balance each month.
- Basic Life - Employer paid. Fill in form from the NM Public School Insurance Authority (NMPSIA).
- Penalties will be assessed if payment is not made by the date specified. Reference Section 22-29-3. NMSA 1978. Definitions. Section 22-29-7. NMSA 1978. Authority; duties. (New Mexico Public School Insurance Authority).
- *IRS - Section 125 plan fee/deductions.* The total amount deducted as entered on invoice must equal total amount deducted on the payroll summary. Totals posted must reconcile to the totals posted to the general ledger.
- *Worker's Compensation fee.* A system of insurance that protects workers and employers from some of the losses caused by on the job accidents and job related illnesses. All employers that have three or more employees must have a workers compensation policy and must pay a workers compensation fee. The fee is an administrative fee paid to the state (a tax) and does not provide insurance coverage. Reference www.workerscomp.state.nm.us for filing instructions, etc.
- *Unemployment Compensation.* Submit schedules "A" and "B" and/or magnetic media tax payment quarterly at the end of each month following the close of the calendar quarter Assessment rates for each school district are set by the State Risk Management Division of the General Services Department based on experience, assessable wages and benefits paid. Payment is due thirty (30) days from date of invoice.



Payroll reports shall agree and be reconciled to the payroll journal after each payroll is posted to the general ledger.

CASUAL EMPLOYEES

Employees whose employment is sporadic or temporary are commonly called "Casual Employees". Payroll should also include student employees who receive payment for services on a wage basis.

All payroll deductions required by law shall be made on the salary or wage of such employees, as defined by the applicable agencies that require such payroll deductions. Voluntary deductions allowed from Casual Employee earnings shall be set by local school board or governing council policy. Non-employee payments of \$600.00 and greater must be reported by the school on IRS Form 1099.

If employees are overpaid, administrative procedures must be in place to address the over payment. Typically, while still employed **any subsequent pay should be reduced to account for the error**. If disputes arise over these types of payments, it is strongly recommended that the district contact legal counsel.

ADJUSTMENTS TO PAYROLL

If an employee is terminated, resigns, takes a leave of absence or any other change occurs in the employment status, the school principal/supervisor shall submit written notification immediately of such to the Superintendent and the business office. Common changes throughout the fiscal year may include but are not limited to the following:

- Tax tables changes for the deduction of state and federal income tax;
- Substitute wage entries, often compiled by various software applications that track the need and dates of service;
- Voluntary insurance deductions for health, vision, dental, life etc.;
- New employees demographics;
- Retirements;
- Pay for tutoring;
- Pay for summer school;
- Part time services or miscellaneous stipends;
- Bank account changes related to direct deposits for employees;
- Rates on any statutory deduction such as Social Security or Educational Retirement; and,
- Administrative leave with or without pay.

If an employee is absent during a pay period, written notification, with required signatures, shall be submitted **timely** to the business office by the school principal/supervisor.

PAYROLL VOUCHER

The Salary or Payroll Voucher should be prepared to reflect the gross salary for each salary expenditure code as taken from the subtotals of the payroll summary. Also, a district's share of benefits should be included on the payroll voucher. Section 6-5-8. NMSA, 1978, requires that, "Every claim for payment of public money shall be made upon a public voucher....All vouchers must be certified as true and correct by the officer or employee designated to approve payments of claims against state agencies and local public schools."

This certification may be done by a separate voucher. The copy of the payroll journal itself may serve as the payroll voucher as long as certification is included in the payroll journal and salary expenditure codes are designated. Attach the original payroll summary to the salary or payroll voucher. The duplicate payroll summary may be maintained on file as the payroll check or warrant journal and be reconciled monthly to obtain the payroll checks or warrants outstanding.

If during the preparation of the payroll, a check or warrant is voided, the number should be recorded in its proper numerical sequence on the payroll summary and the voided check or warrant shall be filed appropriately. An adjusting entry must be made to the general ledger (to the funds affected) on the district or charter school financial

management system. All documentation shall be available to the district or charter school Independent Public Accountant.

PAYROLL CLEARING ACCOUNT

A separate Payroll Clearing Account may be established for the purpose of isolating payroll and payroll related expenditures. There are several different procedures that school districts or charter schools may follow if the choice is to disburse all payroll and payroll related expenses out of a payroll clearing account.

6.20.2.14.G. NMAC. Clearing accounts or pooled accounts may be used to combine more than one fund in one bank account. Clearing accounts shall reconcile to a zero balance at the end of each month. Bank reconciliations for clearing accounts shall be completed on a monthly basis.

✓ **Transferring the Gross Payroll Plus District Matching (Gross Plus PR Expense)**

A voucher is prepared for the gross payroll amount and the district or charter school's portion of FICA, FICA/Medicare, ERA, insurance as follows:

Payroll	Gross Pay (for each employee by fund)
FICA	Social Security – District Match amount
Medicare	District Match amount (each employee by fund)
Educational Retirement	District Match (for each employee by fund)
Retiree Health Care	District Match (for each employee by fund)
Health Insurance	District Portion (for each employee by fund)

Cash is transferred to the payroll clearing account prior to the issuance of the payroll checks to the employees. ***The reconciling process takes place before any transfers/disbursements are processed.*** Net wages, wire transfers for federal and state tax deposits, payments for retirement withholding and match, health insurance including the employees and the district's share, and other voluntary withholdings are paid from the Payroll Clearing Account with this method.

The payroll clearing account should reconcile to a zero balance after payroll checks and all applicable withholdings and district required matching payments are paid.

✓ **Bank Transfers Payroll Check Amounts as Presented**

An alternative to this process is for the bank to automatically transfer funds from the district's primary account to cover checks and transfers presented to the bank. While the bank account balance will be zero, the reconciled cash balance is a negative amount

equal to any outstanding payroll checks or benefits as shown on the outstanding checks listing that the district produces each month.

✓ **Payments to Payroll related Vendors**

Some districts may not immediately liquidate the payments to vendors, especially if the vendor will not accept the payment until it has presented an invoice. In some cases, the district's totals and those of the vendor may be different because an employee has just been added to or removed from the plan or has changed the amount of his/her deduction and the district withheld an amount that differs from the vendor. If the check is issued immediately upon finalization of the payroll, it may not be accepted by the vendor who requires that the check match the billing. Districts may have to void and reissue checks if this situation occurs. By leaving this amount as a current year payable until the billing is received and reconciled, a check for the proper amount may be issued. General journal entries will have to be made by the district to resolve any differences. It is important for good internal cash control to reconcile and make proper entries each month as part of the district's month end closing procedures.

✓ **Transferring the Employee Net Amount to a Clearing Account**

Another method of accounting for payroll is to write a check to the payroll clearing account for the net amount of employee pay. Under this method, all withholdings and matching amounts would be paid via voucher through each applicable fund, or through an accounts payable clearing account. Employee checks would be the only checks issued from the clearing account which should always reconcile to zero after all checks are issued and presented to the bank for payment. The accounts payable created would have to be reconciled as detailed above each month and would represent an accrual entry. ***Reference a detailed illustration of journal entries for payroll in PSAB Supplement 5, Financial Statements.***

It must be noted that the temporary cash balance created by a payroll payable *is cash that is not available to budget* and should not be included in the cash balance reported as available to budget to the state, but only as a reconciling item to the financial statement cash balance. (See preparation instructions on the required PED Cash Report, PSAB Supplement 7, Cash Controls.)

ACCRUALS AND REVERSALS

Accruals:

Most districts use the modified accrual method of accounting for financial statements, (and cash basis for state reporting) under which revenue is recognized when available and expenses are recognized when incurred. Only the modified accrual or accrual methods of accounting are acceptable under Generally Accepted Accounting Principles (GAAP), based upon the fund type. It is not uncommon that paydays, the last day of

pay periods, and the last day of accounting periods (e.g., fiscal years) generally do not all occur on the same day. For this reason, districts and charter schools must account for payroll expenses at the end of the account period/fiscal year, June 30, by accruing amounts earned but not paid at that date. Accrual accounting calls for a journal entry to debit the payroll expense account and credit accrued wages payable (liability account). See the previous section describing accrual entries "when transferring the net amount to a payroll clearing account".

Reversals:

Payroll accrual entries made at the end of an accounting period estimate the payroll expenses and liabilities incurred between the last payroll payment date and the end of the accounting period. When an expense that has been previously accrued is later actually paid, a reversing entry must be made. Staff should debit – or reverse – the liability account that was credited and credit cash to indicate actual payment.

The majority of school employees are employed on a contract basis – a set dollar amount for a given number of days or months worked. This annual dollar amount is divided so that the employee receives equal amounts every payday throughout the year, regardless of what the actual earnings are for that particular pay period. An appropriate recording of the actual expense of the pay period is achieved by accruing the difference in what the employee earns and what the employee is paid. As actual earnings materialize over the course of the fiscal year a district may end up with salaries payable for the summer months when most employees are not working but are drawing those same paychecks. As summer payments are earned, instead of expensing the salary account, a draw is made from the payable (debit to the accrual or liability) account, thus reducing its balance. Most software systems today handle this automatically, if everything is input correctly in the employee's pay record.

SUMMER PAYROLL

Section 22-10-7, NMSA, 1978 states, "All certified school personnel shall be paid at least once a month during a school year. The salary may be paid at least once a month during a twelve-month period although services are to be performed during a period less than twelve months." Therefore, payroll for certified personnel who work nine months can be paid over twelve months.

The total salary earned by an employee in a single fiscal year shall be charged against the appropriate budget expenditure codes of that fiscal year's approved budget. If the school district prepares payroll checks and holds them until the actual distribution of the checks, the school district should insure that the checks are not pre-signed and properly safeguarded from theft and destruction.

The school district or charter school should also ensure the financial statements are properly adjusted to reflect the actual cash balances and liabilities as of the end of the

fiscal year. Proper should include an accounts payable amount to be included on line 16 of the Public Education Department's *Cash Report*. Reference PSAB Supplement 7, Cash Controls.

INDIAN EXEMPTION - STATE WITHHOLDING TAXES

Native American Indians living and working within their own reservation are exempt from New Mexico State Income Tax. Specific instructions for exemption are available from the State Taxation and Revenue Department of New Mexico.

TAX DEFERRED ANNUITIES

Portions of salaries or wages that are used to purchase tax deferred or sheltered annuities shall be treated the same as other employee authorized deductions. Since this portion of salary or wage is subject to the Educational Retirement Act (ERA) and Federal Insurance Contributions Act (FICA), the compensation required establishing the distribution of the gross monthly salary or wage becomes somewhat complex. Once the local school board approves the tax deferred annuity, the school district enters into an agreement with an outside "administrator" who is charged with the responsibility of receiving funds withheld from eligible employees; making periodic tests of eligibility for timing and annual dollar limitations; investing funds in agreed upon investments; and reporting at least annually to eligible participants.

The school district must maintain payroll records in sufficient detail so that employee earnings reflect the correct amount of total wages, taxable wages, and amounts withheld under tax deferred annuities. The year-end W-2 records of participating employees should reflect the amount of deferred salary withheld. School districts can obtain assistance in these areas through a variety of sources (i.e. Cafeteria Plan Insurance Companies, computer support companies, etc.).

INTERNAL REVENUE SERVICE - SECTION 125

This plan allows for certain employee's deductions (i.e. insurance, dependent care, additional medical - refer to a district's plan for amounts), to be deducted from gross wages before Federal/State withholding and FICA/Medicare are calculated. This arrangement must be authorized by the employee (signature), renewed annually and is handled typically by a third party administrator. Documentation is maintained on file in the business office and may be reviewed by a district's or charter school's Independent Public Accountant during the annual audit.

SALARY OF A DECEASED EMPLOYEE

Section 45-3-1301, NMSA, 1978. Collection of employee's final payment without administration.

The **surviving spouse** of a deceased person may, without procuring letters, collect **any sum** representing the final payment owed the decedent at the time of his/her death for wages, earnings, salary commissions, travel or other reimbursement from the State or any of its political subdivisions or from any corporation, co-partnership, association, individual, bank or trust company."

Section 45-3-1302 NMSA 1978, states "**Affidavit showing death of employee; payment.**

Upon receiving an affidavit stating that a person previously in its employ is dead and that the affiant is the surviving spouse, the state or any of its political subdivisions, or any corporation, co-partnership, association, individual, bank or trust company may pay to the affiant the amount of wages, earnings, commissions, salary, travel or other reimbursement earned by the deceased and the affiant's receipt shall release the payer from all liability thereof.

COMPENSATED ABSENCES

ACCOUNTING FOR COMPENSATED ABSENCES

The recognition of a liability for compensated absences is dependent upon whether employee rights vest or accumulate. FASB-43 defines these two terms as follows:

- Vested rights--represents rights which the employer has an obligation to make payment even if an employee terminates; thus, they are not contingent on an employee's future service.
- Accumulated rights--represents rights that are earned but unused rights to compensated absences that may be carried forward to one or more period subsequent to that in which they are earned, even though there may be a limit to the amount that can be carried forward.

Based on the characteristics of the compensated absences plan, the school district or charter school must either make an accrual for the benefits or make certain disclosures with respect to the benefit plan.

ACCRUAL OF COMPENSATED ABSENCES

When all of the following four conditions exist, a school district must accrue a liability for employees' compensation for future absences:

- The employer's obligation relating to employees' rights to receive compensation for future absences is attributable to employees' services already rendered.
- The obligation relates to rights that vest or accumulate.

- Payment of the compensation is probable.
- The amount can be a reasonable estimate.

The first of the four criteria recognizes the need to record a liability in the period in which the benefit was earned by the employee. For example, if an employee has a vested right to a three-week vacation during the second year of employment, the actual benefit is earned and should be accrued during the first year of employment subject to reductions due to expected turnover rates.

ACCUMULATED SICK PAY BENEFITS

There is one exception to the general rule of accrual for compensated absences. Even if the four criteria exist, FASB 43 states that an entity is not required to accrue a liability for "non-vesting accumulating rights to receive sick pay benefits" (compensation for absences due to illness). Thus, a school district is free to either accrue or ignore the estimated liability that arises from non-vesting accumulating sick pay benefits. Once a specific method of accounting is adopted, it must be applied consistently from period to period.

Sick pay benefits must be the result of actual illness in order for the exception to apply. In some the employee is not ill, or the employee may be allowed to take compensated terminal leave prior to retirement. Benefits of this nature are subject to accrual if the four criteria discussed earlier exist.

PAYROLL OPERATIONS

The district or charter school shall organize departments and adequately define responsibility to ensure proper segregation of duties which promote and exhibit sound internal control standards. Personnel (human resource) and payroll functions are performed and supervised by personnel in different departments.

Payroll personnel are generally responsible for:

- Payroll calculations,
- The posting of overtime, part-time, substitute and other incidental salaries and benefits that should be posted to appropriate account codes and if applicable to program/department budgets,
- Preparation of payroll disbursement records (payroll ledger, individual year-to-date earnings records),
- Preparation and distribution of payroll checks,

The personnel department responsible for:

- Documenting employee status, compensation, and benefit records,
- Approving employee status change documents,
- Preparing and updating payroll master files,

SELECTED PAYROLL/ HUMAN RESOURCE RELATED FUNCTIONS

PAYROLL AND HUMAN RESOURCE DEPARTMENTS

Roles and Responsibilities

Payroll and Human Resource Department activities are integrated to provide necessary financial data and reporting considering the following necessary procedures:

- The payroll and personnel systems are sharing a common data base with appropriate use of strict security measures employed.
- Management's procedures need to ensure that the responsibility for personnel assignments is clearly delineated to ensure appropriate duty and financial accountability.
- The generation of management reports showing contract amounts, leave balances, overtime, special stipends are periodically analyzed and examined for accuracy.
- Staff periodically review the general ledger for budgetary reports that reflect the amount of available budget, all encumbrances and the status of contractual amounts.
- Payroll data is integrated with personnel, accounting and budget systems to ensure the general ledger is updated timely and accurately as payroll records are processed.

Below is a list of selected activities that are commonly performed by either the Payroll or Human Resource Departments. Some of the job roles below are also considered "internal control" functions and as stated previously, the determination of which department performs a particular function is dependent on the size and complexity of the district or charter school.

HUMAN RESOURCE DEPARTMENT - RESPONSIBILITIES

- ✚ The Personnel Department or Human Resource Department of each school district/charter school should be responsible for the determination of the individuals to be included on the payroll of the district.
- ✚ The personnel department is responsible for posting vacancies in the district or charter school.
- ✚ Performance reviews are actually performed and documented periodically. These records are maintained in the employee file on all employees.
- ✚ All employees have proper and adequate training on federal regulations related to employment.
- ✚ All employees are made aware of District Administrative Policies and Procedures including their responsibilities and expectations. Employees may be asked to verify their understanding of district policies and procedures with their signature.
- ✚ Employment applications are required for all applicants.
- ✚ References are checked on all potential new hires.
- ✚ Interviews are scheduled with potential new hires.
- ✚ Background checks are performed on all employees.
- ✚ The personnel department should inform employees of mandatory benefits, available optional benefits, and other paid or nonpaid benefits.
- ✚ The personnel department communicates the employee's choices regarding compensation issues to the payroll department.
- ✚ Contracts are distributed to staff for signatures and submitted to PR for processing.
- ✚ Employees have adequate supervision. Employees with inadequate supervision are identified.
- ✚ Vacation, personal and sick accruals are periodically verified in writing with the employees. (This information may be made available on the payroll voucher on a monthly basis).
- ✚ Vacation, personal and sick accruals are updated at least monthly.

JOINT DETERMINATIONS BY HR AND PR

- ✚ Employee job descriptions are maintained and updated periodically.
- ✚ A Personnel Action Form (or similar record typically generated on the school FMS) is used to document all new hires, changes in employment, salary, wage rates, and payroll deductions.
- ✚ All Personnel Action Forms are properly authorized, approved, and documented.
- ✚ Procedures exist to record vacation, personal and sick time and the need for substitutes. (Various software applications are generally used to document and record these activities and provide historical data when necessary).
- ✚ All necessary payroll records are maintained, including vacation leave, sick leave. Maintenance of records shall follow guidelines in PSAB Supplement 21, Records Retention and Disposition.
- ✚ Procedures exist to ensure that employees that separate from the district or charter school return any public assets and receive separation documents such as retirement or insurance information. Human Resource Departments generally have a check in and out procedure.
- ✚ Salary amounts are internally audited periodically to be certain the statutory limits are met for minimum salaries.
- ✚ Position Control and the overall management of a district/charter school full time equivalent (FTE) or staffing is strictly managed in order to meet staffing and budgeting requirements and operate as efficiently and economically as possible.

PAYROLL RESPONSIBILITIES

- ✚ Salary schedules are produced with necessary approvals, availability of budget, and entered into the district/charter school Financial Management System (FMS).
- ✚ Contracts are processed annually with new pay rates. Software applications may generate the actual document based on data that has been entered into the financial management system. The data from employee records, salary schedules and pay calendars are used to produce contracts. Contracts typically are produced to address the services of certified and non-certified personnel. A discussion of “contracts” follows in this supplement.
- ✚ Necessary documentation for deductions are accumulated and entered into the FMS. Necessary documentation including authorizations by the employee is maintained for inspection or validation by the district or charter school auditors.

The assignment of duties that revolve around the Payroll Department and the Human Resource Department differ from district to district and /or charter school. It is management's responsibility to assign these roles with forethought and that are in the best interest of the district or charter school at large. *Communication between departments must exist at an extremely high level in order to provide services to staff insure accountability and avoid any sign of impropriety.*

TRAINING AND EXPERIENCE (T&E) - INSTRUCTIONAL STAFF

Reporting

The Training and Experience Report required by the Public Education Department is submitted annually (usually in November) by school districts and is based on the October payroll. Calculation of the training and experience index is extremely critical when determining funding for the district or charter school. Thus, this report is routinely prepared by finance staff; however, such documentation is instrumental in assuring the licensing requirements are met and documented in personnel files. The Procedures Manual for the Calculation of the Training and Experience Index is available on-line at www.ped.state.nm.us. This index is a multiplier within the New Mexico funding Formula and is instrumental in generating additional units that translate into more funds for schools.

The Inspector General's Office of the Public Education Department periodically audits district or charter school data that support this calculation and if the training and experience of instructional staff is improperly maintained, the annual report could be inaccurate. *Funding can be withheld from a district or charter school if discrepancies are discovered.* Reference PSAB Supplement 1, Budget Planning, Preparation and Maintenance.

PAYROLL DATABASE

The payroll process requires many periodic updates to the information database that ensures an accurate and reliable production of pay instruments. These periodic changes may occur randomly or on a regularly scheduled basis, such as a day, week, month, or year. In many instances, governmental regulation or contract terms determine when changes in the database will occur. Employee options also effect changes. The following database items need to be considered:

Account Codes as prescribed by PED: See PSAB Supplement 3 for appropriate fund, function, object and job class.

Demographic Data: Information to identify the employee as a unique individual, including

name, address, social security number, withholding exemptions, marital status ,hire date, training and experience, etc.

Hours of Work: The normal work schedule that is related to the payroll department on a timesheet declaration from the employee or is understood by a professional contract.

Overtime Work: Hours worked beyond the normal work week that will qualify for time and one half to be paid.

Payroll Period: The frequency at which employees provide services and are paid. (In school districts and charter schools, pay is generally distributed twice monthly.

Pay Date: The regularly identified date on which employees are paid.

Salary Schedule(s): The documents that determine the periodic pay rates for individuals.

Contractual Data: The contract document that complies with the Public Education Department standards and/or district/charter school policies. See exhibit under “Contracts” in this section.

Training and Experience: Employee training including degrees, certifications, etc. and years of experience that justify placement on pay schedules. Information is documented in personnel files. Districts and charter Schools have policies that recognize various aspects of training and experience while meeting state guidelines.

Paid and Unpaid Leaves: The policy or procedures that determine which leaves of absence are paid or unpaid.

Unemployment Compensation: The unemployment benefit program administered by the Employment Security Department. The district may participate in a tax rate basis or reimbursement rate basis of replenishing the fund. The reimbursement rate basis may be self-administered or administered through a cooperative arrangement with other school districts.

Social Security/Medicare: Also known as FICA or the Federal Insurances Contribution Act. This is the federal government-sponsored program of pensions and disability income to qualified individuals supported by payroll taxes.

Retirement Systems: The state government-sponsored retirement systems (NM Educational Retirement Board (ERB) supported by payroll deductions and contributions by the district or charter school employees and boards of education or Governing Councils.

Workers' Compensation Insurance: The state government-sponsored program of pensions, disability income, and/or medical expenses for qualified individuals who have sustained injuries on the work site as a result of performing duties for the district. The program is administered by the Department of Labor and Industries and the district may be self-administered or a member of a cooperative arrangement to administer claims. A Worker's Compensation fee is paid by both the employee and the employer.

Garnishments and Levies: Garnishments are legal procedures that withhold earnings from employees for the payment of debt. A levy is a federal garnishment. IRS Tax Levies are withholdings for unpaid taxes. The source document authorizing garnishments is a summons or income deduction order served by an officer of the court or agency. Garnishments may include payment for child support, unpaid alimony, taxes, defaulted student loans, court fees and fines, bankruptcy and other monetary judgments. All Garnishment Orders shall be *immediately date stamped upon receipt* and delivered to the payroll clerk. Garnishments shall be verified, approved, and dealt with immediately. It should be the policy of the district or charter school to comply with all legitimate wage attachment orders and garnishments. A garnishment notification to the affected employee should be in writing and state when the garnishment shall affect pay and the options available to the employee. *See sample notification letter in the Tips, Tools and Resources section of this manual.*

Optional Benefits and Deductions: The district-sponsored benefits to which the district may or may not contribute, include health insurance, life insurance, disability insurance, annuity, United Way, credit union, deferred compensation, etc.

Voluntary deductions may include union dues (often negotiated between the district management and local union representatives), fees for local memberships such as health clubs or other insurance coverage that the district or charter school may or may not contribute. Governing boards should have policies in place that describe the types of deductions available to their staff and review these policies on an annual basis. Various vendors may request to add a deduction(s) to the district or charter school payroll. It is strongly recommended that administration carefully consider the merit of such requests, and establish written criteria in order to treat such requests consistently. Administrative costs to manage additional or numerous programs may become cost prohibitive.

FAIR LABOR STANDARDS ACT (FLSA)

Purpose

The Fair Labor Standards Act which prescribes standards for the basic minimum wage and overtime pay affects most private and public employment. It requires employers to pay covered employees who are otherwise exempt at least the federal minimum wage and overtime pay of one and one half times the regular rate of pay. The Act is administered by the Employment Standards Administration Wage and Hour Division within the U. S. Department of Labor. Reference Fair Labor Standards Act **29 U.S.C., Sec. 201 et seq.**

Exempt and Non-Covered Employees

Not all employees of state and local governments are affected by the Fair Labor Standards Act (FLSA). Certain employees simply are not covered by the act. Other employees, while covered by the FLSA are exempted by specific provisions of the act. (exempt employees). Non-covered employees include elected officials, their personal staffs, policy making appointees, legal advisors, legislative employees, bona fide volunteers, independent contractors, prisoners and certain trainees.

EXEMPT EMPLOYEES

Generally include three major (white-collar) categories:

- ✚ Executive
 - Superintendent
 - Assistant Superintendent
 - Directors
- ✚ Administrative
 - Principals
 - Assistant Principals
- ✚ Professional
 - Classroom Instructors
 - Psychologists
 - Nurses
 - Counselors
 - Accountants
 - Speech and Language Specialists
 - Computer Specialist-designer of systems, hardware or software

NON-EXEMPT EMPLOYEES

Categories include but are not limited to the following:

- ✚ Secretaries
- ✚ Bookkeepers
- ✚ Bus Drivers/Transportation Workers
- ✚ Receptionists
- ✚ Instructional Assistants
- ✚ Computer Lab Managers
- ✚ Custodians
- ✚ Cafeteria Workers
- ✚ Clerks
- ✚ Crossing Guards
- ✚ Maintenance Workers
- ✚ Computer Tech Workers

- ✚ School Resource Workers
- ✚ Nurses w/o degree
- ✚ Media Assistants
- ✚ Before/After School Workers
- ✚ Pre=School Workers

The minimum salary level required for a worker to be an exempt executive, administrative or professional has been raised to \$455 per week, or \$23,660 per year. The same rule created a highly compensated employee exemption, established new pay docking regulations for exempt workers, and created a safe-harbor provision for employers that inadvertently violate the salary basis test. Training is a key step to ensuring and understanding of and compliance with FLSA regulations. Supervisors and managers, and personnel in human resources and payroll departments must understand the salary basis test provision, including rules for docking the wages of exempt workers. Employers also should review and revise employee job descriptions to ensure that they better reflect workers' actual duties. For example, an employer may want to give its executive employees the power to hire and fire, or make recommendations that are given "particular weight," to ensure that the requirements for an executive exemption are met.

When reviewing job descriptions employers should make every effort to describe in detail how the job duties performed by their exempt employees require the exercise of "discretion and independent judgment", a requirement under most of the white-collar exemptions' duties tests.

Notices and Posters for FLSA

Every employer of employees subject to the FLSA minimum wage provisions must post and keep posted a notice explaining the ACT in a conspicuous place in all of their establishments. (school sites, offices). The *Employee Rights for Workers with Disabilities/Special Minimum Wage Poster* should also be posted.

RECORD KEEPING FOR FLSA

Every employer covered by the Fair Labor Standards Act (FLSA) must keep certain records for each covered, nonexempt worker. There is no required form for the records, but the records must include accurate information about the employee and data about the hours worked and the wages earned. The following is a listing of the basic records that an employer must maintain for both the exempt (E) and the non-exempt (NE) categories:

- E,NE - Employee's full name, as used for social security purposes, and on the same record, the employee's identifying symbol or number if such is used in place of name on any time, work, or payroll records;
- E, NE - Address including zip code;

- E, NE - Birth date, if younger than 18;
- E, NE - Sex and occupation;
- E, NE - Time and day or week when employee's work week begins. Hours worked each day and total hours worked each week;
- NE - Basis on which employee's wages are paid;
- NE - Regular hourly pay rate;
- NE - Total daily or weekly straight time earnings, excluding overtime pay;
- NE - Total overtime earnings for the work week;
- NE - All additions to or deductions from the employee's wages;
- NE - Amount and nature of compensation that is excluded from regular rate;
- NE - Total wages paid each pay period;
- NE - Date of payment and the pay period covered by the payment.

PROBLEM AREAS TO CONSIDER

Examine closely the following circumstances:

- Timesheets that reflect the *exact* in/out time and total hours worked *EVERY DAY* of the week,
- Timesheet NOT completed by the employee,
- Timesheet not signed by the employee,
- Timesheet with multiple employees completed by the supervisor,
- Timesheet that does not record actual hours worked, just present and absent information,
- Timesheet that does not record actual time/hours worked, but only contracted hours.

CALCULATING PAY FOR NON-EXEMPT EMPLOYEE

FLSA requires hourly employees to be paid overtime for all hours in excess of forty (40) hours per week. Over time pay is required at one and one half for all hours in excess of forty hours in a given work week (7 consecutive 24-hour periods) If the employee's regular time is less than 40 hours, then he/she is entitled to additional straight time pay for extra hours worked between his/her regular workweek and 40 hours.

WEIGHTED AVERAGE CALCULATION

Calculating Overtime Pay for a Non-Exempt Employee - *for two different jobs.*

- ❖ Employee hired to work two or more different types of work for which different straight time rates have been established – the employee's regular rate for that week is the *weighted average* of the two rates.

- ❖ The earnings from all such rates are added together and this total is then divided by the total number of hours worked at all jobs to determine the employee's regular rate of pay which serves as the basis for the "time and one half" pay for overtime compensation.

BLENDING OVERTIME RATE

- ❖ If a custodian/bus driver is scheduled to work 60 per cent of his/her time as a custodian and 40% off his/ her time driving a bus, and is hired to work 40 hours per week. If the employee exceeds the 40 hours per week, the employer must pay overtime by calculating the blended overtime. *Administrative procedures shall address the overtime rate for non-exempt employees that work after school hours for various school sponsored activities.*

60 % of time at a \$20 per hour position and 40 per cent of time at a \$10 per hour position, the blended rate is \$16.00, that is,

The Calculation = $(60\% \times \$20) + (40\% \times \$10)$ - thus, *the blended overtime rate is \$24 per hour (\$16. X 1.5)*

LAWS AFFECTING EMPLOYMENT CONDITIONS AND PAYMENT OF WAGES

Reference the following New Mexico state laws:

Section 22-10A-30 NMSA 1978 - *Minimum wages for Non-certified school personnel.* This rule states that a local school district shall pay a minimum wage rate of six dollars (\$6.00) per hour to all noncertified school personnel,

Section 50-4-2 A-B. NMSA 1978 – *Semi-monthly pay days required,* This rule states that an employer shall designate regular pay days, not more than sixteen days apart, as days fixed for the payment of wages to all employees paid in New Mexico. The employer shall pay for services rendered from the first to the fifteenth days, inclusive of any calendar month by the twenty-fifth day of the month during which services are rendered and for services from the sixteenth to the last day of the month by the tenth day of the succeeding month.....B.. an employer shall pay wages in full, less lawful deductions and less payroll deductions authorized by the employer and employee.

Section 50-4-4 NMSA 1978 - Unpaid Wages to Discharged Employee, this rule states that whenever an employer discharges an employee, the unpaid wages or compensation of such employee, if a fixed and definite amount, and not based on a task, piece, commission basis or other method of calculation, shall upon demand become due immediately, and the employer shall pay such wages to the employee within five days of such discharge.

Section 50-4-5 NMSA 1978 – Unpaid wages to employee who quits. This rule states that whenever an employee (not having a written contract for a definite period) quits or resigns his employment, the wages or compensation shall become due and be payable at the next succeeding payday. The employer may make immediate payment at the time of the employee quitting.

Section 50-4-9 NMSA 1978 – Employer required to keep accurate records. This rule states that the employer shall keep a true and accurate record of hours worked and wages paid to each employee. The employer shall keep the record for at least one year.

Section 50-4-15 NMSA 1978 - Uniform Time for Beginning work; Notice of Change. This rule states that the beginning of the day of labor shall be uniform as provided for by the rules or regulations governing the place of employment; provided however that in case any change in the time of the beginning of the day of labor is desired, it shall be the duty of the management of such an establishment to notify such employee of such changes the day before such change and notice shall be served during the work day.

Section 50-4-30 NMSA 1978 - Daily Maximum Hours of Employment, this rule states that no employee (pertaining to school districts and charter schools), shall be required to work longer hours, or employees primarily in a stand by position, shall be required to work for any employer within the state more than sixteen hours in any one day of twenty four hours except in emergency situations.

PAY FOR OUT OF TOWN TRAVEL

- ❖ Generally non-working hours are generally not compensable.
- ❖ Employers must not require performance of duties or other work, if employees are required to be available, then they must be compensated.

WAGES RELATED TO PERMITTING/SUFFERING

- ❖ If the employer “suffers or permits” an employee to work overtime, even after telling employee they cannot work overtime, the employer is liable to pay wages for the overtime. This rule is applicable is the work is performed at home or at school. Mere promulgation of the rule is not sufficient to avoid overtime liability. Employers must insist that employees leave at designated times. It must be stressed that the record of time worked becomes extremely important. In the absence of GOOD record keeping the employees record will generally be favored if there is a dispute.

COMPENSABLE TIME UNDER THE FLSA

Employees "Suffered or Permitted" to work: Work not requested but suffered or permitted to be performed is work time that must be paid for by the employer. For

example, an employee may voluntarily continue to work at the end of the shift to finish an assigned task or to correct errors. The reason is immaterial. The hours are work time and are compensable.

Waiting Time: Whether waiting time is time worked under the Act depends upon the particular circumstances. Generally, the facts may show that the employee was engaged to wait (which is work time) or the facts may show that the employee was waiting to be engaged (which is not work time). For example, a school secretary who reads a book while waiting for dictation is working during such a period of inactivity. This employee has been "engaged to wait."

On-Call Time: An employee who is required to remain on call on the employer's premises is working while "on call." An employee who is required to remain on call at home, or who is allowed to leave a message where he/she can be reached, is not working (in most cases) while on call. Additional constraints on the employee's freedom could require this time to be compensated.

Rest and Meal Periods: Rest periods of short duration, usually 20 minutes or less, are common in industry (and promote the efficiency of the employee) and are customarily paid for as working time. These short periods must be counted as hours worked. Unauthorized extensions of authorized work breaks need not be counted as hours worked when the employer has expressly and unambiguously communicated to the employee that the authorized break may only last for a specific length of time, that any extension of the break is contrary to the employer's rules, and any extension of the break will be punished. Bona fide meal periods (typically 30 minutes or more) generally need not be compensated as work time. The employee must be completely relieved from duty for the purpose of eating regular meals. The employee is not relieved if he/she is required to perform any duties, whether active or inactive, while eating.

Sleeping Time and Certain Other Activities: An employee who is required to be on duty for less than 24 hours is working even though he/she is permitted to sleep or engage in other personal activities when not busy. An employee required being on duty for 24 hours or more may agree with the employer to exclude from hours worked bona fide regularly scheduled sleeping periods of not more than 8 hours, provided adequate sleeping facilities are furnished by the employer and the employee can usually enjoy an uninterrupted night's sleep. No reduction is permitted unless at least 5 hours of sleep is taken.

Lectures, Meetings and Training Programs: Attendance at lectures, meetings, training programs and similar activities need not be counted as working time only if four criteria are met, namely: it is outside normal hours, it is voluntary, not job related, and no other work is concurrently performed.

Travel Time: The principles which apply in determining whether time spent in travel is compensable time depends upon the kind of travel involved.

Home To Work Travel: An employee who travels from home before the regular workday and returns to his/her home at the end of the workday is engaged in ordinary home to work travel, which is not work time.

Home to Work on a Special One Day Assignment in Another City: An employee who regularly works at a fixed location in one city is given a special one day assignment in another city and returns home the same day. The time spent in traveling to and returning from the other city is work time, except that the employer may deduct/not count that time the employee would normally spend commuting to the regular work site.

Travel That is All in the Day's Work: Time spent by an employee in travel as part of his/her principal activity, such as travel from job site to job site during the workday, is work time and must be counted as hours worked.

Travel Away from Home Community: Travel that keeps an employee away from home overnight is travel away from home. Travel away from home is clearly work time when it cuts across the employee's workday. The time is not only hours worked on regular working days during normal working hours but also during corresponding hours on nonworking days. As an enforcement policy the Wage and Hour Division will not consider as work time that time spent in travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile.

Typical Problems Related to Hours Worked:

Problems arise when employers fail to recognize and count certain hours worked as compensable hours. For example, an employee who remains at his/her desk while eating lunch and regularly answers the telephone and refers callers is working. This time must be counted and paid as compensable hours worked because the employee has not been completely relieved from duty.

STRATEGIES TO MINIMIZE OVERTIME

- ❖ Adjust schedules
- ❖ Minimize dual employment
- ❖ Utilize exempt employees as much as possible
- ❖ Make certain extra duties do not lead to overtime
- ❖ Develop, implement, and enforce overtime policies
- ❖ Properly classify employees as exempt and non-exempt
- ❖ Create board/governance policies that set forth the workweek, overtime and compensatory time
- ❖ Identify the seven day work week and the number of hours employees are expected to work
- ❖ Authorizations are in place to allow for overtime
- ❖ Annually train supervisory staff on FLSA compliance issues

- ❖ Train non-exempt staff on proper use of time sheets and OT requirements
- ❖ Monitor weekly time records

The Manual of Procedures for Accounting and Budgeting has provided an overview of significant areas contained within the FLSA; however, it is recommended that districts and charter schools seek legal assistance should disputes arise. Proper and periodic reference to the Fair Labor Standards Act is also recommended to keep current on changes or revisions and other areas that are applicable to the public school environment.

TIME AND EFFORT RECORDS

Time and effort records are employee-generated time records reporting the employees effort in support of federal grant(s) and other assignments. The federal government's Office of Management and Budget requires these records. (For additional information regarding time and effort reporting, see the Office of Management and Budget Circular A-87.) Time and effort records are to be completed monthly, unless a substitute system has been approved. Additionally, semi-annual certifications may be completed in lieu of monthly time records if the employee works on a single cost-objective, as defined in Circular A-87. **(For additional information regarding time and effort reporting, see PSAB Supplement 4, Federal and State Grants and the Federal Programs Manual published annually by the Public Education Department).**

Distribution of Paychecks

When the paychecks are ready for distribution there should be a process for checks to be delivered to the site or for checks to be picked up by an administrator for each site.

The district or charter school may elect to utilize a secure process to electronically distribute the payroll voucher. Software applications allow for this semi-paperless method to notify employees and automatically direct deposit pay on their behalf. Proper authorizations and related procedures must be in place to allow for this process.

Regardless of the method chosen to distribute paychecks, procedures must be in place so that unclaimed paychecks are secure. The only recipient shall be the payee, unless written authorization is in place for anyone other than the payee to receive the voucher. District and charter school procedures shall allow for emergencies situations and require necessary approvals.

Payroll Department Staffing

The district/charter school shall establish staffing criteria for payroll processing and related accounting activities. Appropriately, the membership and number of employees in a school district or charter school should drive the number of staff needed to process

payroll information. As payroll processing is probably the single most important function of a business office and represents the major portion of a district or charter school expenditures, this area of responsibility shall have adequate staffing.

Deadlines for reporting state and federal information are critically important and staff shall be strategically placed to produce, submit and monitor all reports that are not only mandated but informally requested by legislative and/or other entities. Management shall be prepared to train and staff adequately to avoid untimely or inaccurate reporting or insufficient monitoring of payroll activities.

Training for Payroll Personnel

Training activities shall include at a minimum:

- Offering staff development opportunities through educational programs, seminars, sessions by outside agencies including, but not limited to, the New Mexico Association of School Business Officials (NMASBO), Public Education Department, Internal Revenue Service, New Mexico Public School Insurance Authority, the American Payroll Association, and the New Mexico Educational Retirement Board
- Updating payroll and human resource staff whenever major changes occur, retirement rates, tax schedules, insurance rates, salary changes etc.
- Orienting new employees and new management on payroll including administrative procedures and state and federal requirements
- Training administrative personnel to understand and analyze payroll and accounting is extremely important in the payroll process. A basic knowledge of the Uniform Chart of Accounts (PSAB Supplement 3) and account code strings related to payroll (particularly the job class element) is preferred. It is imperative that management including superintendents, Boards of Education and Governing Councils understand and has access to this information in order to make important policy decisions.

Planning And Evaluation of Systems and Policies

- Management shall thoroughly review changing payroll requirements and communicate to appropriate personnel that process payroll.
- Management shall analyze requirements for hardware, software, and staffing and update accounting systems whenever necessary. Staff shall continually analyze software applications that may save time and enable staff to work more efficiently and economically.

- Accounting and payroll local policies and procedures shall be evaluated and revised annually according to changing federal, state and local requirements.

SALARY SCHEDULES

Section 22-5-11 NMSA 1978. School district salary systems.

- A. Prior to the beginning of each school year, each local superintendent shall file with the Department the school district salary system which salary system shall incorporate increases or compensation measures specifically mandated by the legislature. Salaries for teachers and school administrators shall be aligned with the licensure framework provided for in the School Personnel Act. Section 22-10A-1 NMSA 1978.
- B. A local superintendent shall not reduce the school district salary system established pursuant to Section A of this section without the prior written approval of the State superintendent (secretary). The state Superintendent shall give written notice to the Legislative Finance Committee, the Legislative Education Study Committee (LESC) and the Department of Finance and Administration (DFA) of approved reduction of any school district salary system, including the reasons for the request for reduction and the grounds for approval.

Section 22-5-14 (3). Local superintendent; powers and duties.

The superintendent shall employ, fix the salaries of, assign, terminate or discharge all employees of the school district.

Salary schedules vary across New Mexico as no standard pay schedule is required. Boards of Education and Governance Councils approve a salary system for the school district or charter school and often the schedules have elements that are common. It is not uncommon that some pay schedules may, in some respects, mirror the “state matrix”.

Reference Section 22-8-24 NMSA 1978. Instructional staff training and experience index; definitions; factors; calculations.

COMPENSATION IN THE PUBLIC SECTOR

A well-defined pay structure that is critical for all employees. The structure should be easy to maintain and be able to attract highly qualified employees. Salary schedules are extremely important as a recruiting tool and often are the reason there is a low turnover in personnel for school districts and charter schools. Salary schedules can contribute to high morale if progressive approaches are taken to address pay for staff. When economies take a down turn it becomes a challenge to not only maintain pay levels, but

to increase salaries for employees. Several elements for success are noted in the following illustration:



PAY REQUIREMENTS FOR CERTIFIED INSTRUCTORS

Minimum salary requirements for:

- **Certified personnel.** Section 22-10A – 1 et. seq. NMSA 1978 School Personnel Act directs that salary minimum for a nine month contract shall be:
 - *Section 22-10A -7.G. NMSA 1978 - Level one licensure minimum salary - \$30,000,*
 - *Section 22-10A-10.D. NMSA 1978 - Level two licensure, minimum salary - \$40,000,*
 - *Section 22-10A-11.C. NMSA 1978 - Level three licensure, minimum salary- for a 9 and one half month contract shall be \$50,000.*

PAY REQUIREMENTS FOR OTHER PERSONNEL

Minimum salary requirements for:

- **Educational assistants.** Section 22-10A-17. NMSA 1978.

- *Minimum annual salary for licensed education assistants shall be twelve thousand dollars (\$12,000) effective in the 2004-2005 school year.*
- ***A Level Three –B school principal or assistant school principal shall be fifty thousand dollars (\$50,000) multiplied by the applicable responsibility factor.***
 - Section 22-210A-2. B. NMSA 1978 defines “responsibility factor” meaning a value of 1.20 for an elementary school principal, 1.40 for a middle school or junior high school principal, 1.60 for a high school principal, 1.10 for an assistant elementary school principal, and 1.15 for an assistant high school principal.

The applications above apply to personnel regardless of the fund that pays for that salary and the minimum levels must be reflected on the district or charter school pay schedule. It is not uncommon for the salary levels of selected categories to be addressed by the state legislature as evidenced above. Boards or Education and Governing Councils possess the ability to structure pay schedules depending on 1) the available of funds; and, 2) that those schedules reflect minimum requirements. Reference PSAB Supplement 1, Budget Planning, Preparation and Maintenance.

Typical salary schedules are included in the Tips, Tools and Resources section of this Manual.

SUBSTITUTES

Section 22-10A-15. Substitute teacher certificate.

The department shall provide by rule for the qualifications for a substitute teacher certification. Substitute teacher certification shall be issued by the department.

2.82.2.11 C. NMAC Employees Excluded From Coverage. (NM Educational Retirement).

Any employee engaged on a day-to day basis to replace another employee who is temporarily absent shall be considered a “substitute” and shall not be covered under the Educational Retirement Act. An employee engaged to fill a vacant position (including a position vacated by an extended leave of absence) is not considered a “substitute” and must be covered under ERA.

- ❖ Governing boards shall establish the daily rate of pay and procedures to make payment to substitute teachers. The policies shall address both short and long term substitute services. It is recommended that substitutes sign and verify the dates of service at the school site. The service records are to be maintained for

annual review by the district Independent Public Accountant. *These wages are subject to all applicable federal and state taxes.*

- ❖ For budgeting purposes it is recommended that administrators establish budget authority based on historical data or program needs, establish a reasonable encumbrance on the financial management system, and monitor this budgeted area carefully as substitute costs are paid as encumbrances are liquidated. Substitute teachers are not considered full time equivalents (FTE); therefore FTE is not budgeted. *The costs are paid from the fund that pays the certified instructor requiring a substitute.*

EMPLOYEE CONTRACTS

Contracts for certified personnel and non-certified personnel shall include but not be limited to the following information:

- Authority or statutory reference,
- Name of the employee,
- Type of service to be performed,
- Terms and conditions,
- The length of service and/or number of contracted days,
- The amount of pay to be distributed (if applicable),
- Hourly wage (if applicable),
- The account code including fund function object and job class,
- License or transcripts requirements,
- Signature of the employee,
- Signature of the Superintendent.

It is recommended that school districts and charter schools contact the Public Education Department, Licensure Bureau and/or legal counsel in order to ensure that the contract language is appropriate and complies with state and federal regulations. Also reference 6.66.2.NMAC, Licensed School Instructor Contract, and 6.66.3. NMAC, Licensed School Administrator Contract.

Standard forms of contracts for Administrators, Educational Assistants, Teachers, Principals, and others will be included in the Tips, Tools and Resources section of this Manual

ELECTION WORKERS

Form W-2

Form W-2 must be prepared for ALL elections workers who are paid \$600 or more in a calendar year. The form must be prepared regardless of whether there is withholding for FICA taxes. School districts may disburse payment directly to election workers or the county treasurer may pay for the service. Reference www.irs.gov for specific guidelines and tax implications for the employer.

EMPLOYEE OR INDEPENDENT CONTRACTOR

An employer must generally withhold income taxes, withhold and pay social security and medicare taxes, and pay unemployment tax on wages paid to an employee. An employer does not generally have to withhold or pay any taxes on payments to independent contractors.

Which Are You?

For federal tax purposes, this is an important distinction! Worker classification affects how you pay your federal income tax, social security and Medicare taxes, and how you file your tax return. Classification affects your eligibility for employer and social security and Medicare benefits and your tax responsibilities.

Common Law Rules

To determine whether an individual is an employee or an independent contractor under the common law, the relationship of the worker and the business must be examined. In any employee-independent contractor determination all information that provides evidence of the degree of control and the degree of independence *must be consistent*.

Facts that provide evidence of the degree of control and independence fall into three categories, behavioral control, financial control, and the type of relationship of the parties. These facts are discussed below.

BEHAVIORAL CONTROL Facts that show whether the business has a right to direct and control how the worker does the task for which the worker is hired include the type and degree of:

- ❖ Instructions that the business gives to the worker – An employee is generally subject to the business instructions about when, where, and how to work. All of the following are examples of types of instructions about how to do work:
 - When and where to do the work;
 - What tools or equipment to use;
 - What workers to hire or to assist with the work;
 - Where to purchase supplies and services;
 - What work must be performed by a specified individual;
 - What order or sequence to follow.

The amount of instruction needed varies among different jobs. Even if no instructions are given, sufficient behavioral control may exist if the employer has the right to control how the work results are achieved. A business may lack the knowledge to instruct some highly specialized professionals. In other cases, the task may require little or no

instruction. The key consideration is whether the business has retained the right to control the details of a worker's performance or instead has given up that right.

Training that the business gives to the worker. An employee may be trained to perform services in a particular manner; independent contractors ordinarily use their own methods.

FINANCIAL CONTROL. Facts that show whether the business has a right to control the business aspects of the worker's job include:

The extent to which the worker has unreimbursed business expenses. Independent contractors are more likely to have unreimbursed expenses than are employees. Fixed ongoing costs that are incurred regardless of whether work is currently being performed are especially important. However, employees may also incur unreimbursed expenses in connection with the services that they perform for their business.

The extent of the worker's investment. An independent contractor often has a significant investment in the facilities he or she uses in performing services for someone else. However, significant investment is not necessary for independent contractor status.

The extent to which the worker makes his or her services available to the relevant market. An independent contractor is generally free to seek out business opportunities independent contractors often advertise and maintain a visible business location, and are available to work in the relevant market.

How the business pays the worker. An employee is generally guaranteed a regular wage amount for an hourly, weekly or other period of time. This usually indicates that a worker is an employee, even when the wage or salary is supplemented by a commission. An independent contractor is usually paid by a flat fee for the job. However, it is common in some professions such as law to pay independent contractors hourly.

TYPE OF RELATIONSHIP. Facts that show the parties type of relationship include:

Written contracts describing the relationship the parties intend to create.

Whether or not the business provides the worker with employee type benefits; such as insurance; a pension plan, vacation pay, or sick pay.

The permanency of the relationship. If a worker is engaged with the expectation that the relationship will continue indefinitely, rather than for a specific project or period, this is generally considered evidence that the intent was to create an employer-employee relationship.

The extent to which services performed by the worker are a key aspect of the regular business of the company. If a worker provides services that are a key aspect of a regular business activity, it is more likely that the employer will have the right to direct and control his or her activities.

CONSEQUENCES OF TREATING AN EMPLOYEE AS AN INDEPENDENT CONTRACTOR.

- ✚ If an employee is classified as an independent contractor and there is no reasonable basis for doing so, the district/charter school may be held liable for employment taxes for that worker. (See Internal Revenue Code Section 3509 for more information).
- ✚ Additionally, if this situation occurs and is tested by a district or charter school independent public accountant, an audit finding is likely.
- ✚ The internal Revenue Service may also perform audits that will likely discover any discrepancies or deviation from the rule and the district or charter school may be liable for penalties or fines.

FORM 1099-MISC

All unincorporated businesses or individuals to whom the district or charter school pays \$600 or more in a calendar year shall receive a Form 1099 – MISC. Types of payments include the following:

- services,
- rents,
- other income payments,
- exception on corporations – issue Form 1099-MISC for payments to providers of health care and medical services,
- attorneys and legal fee costs,.
- Independent contractors.

Non-employee compensation - Enter amounts paid to independent contractors. Generally, this amount is subject to self-employment tax. Payments that are not subject to this tax should be reported elsewhere on the form.

If the following four conditions are met, a payment generally is reportable as nonemployee compensation:

- 1) The district made the payment to someone who is not an employee.
- 2) The district made the payment in the course of business.
- 3) The district made the payment to someone other than a corporation.
- 4) The district paid the recipient at least \$600 during the year.

Examples of payments to be reported are:

- 1) Professional fees (attorneys, accountants, architects). Note: report medical and health care payments and attorney fees even if paid to a corporation,

- Payments for services, including parts or materials used as long as the parts or materials were incidental to providing the service.
- 2) A fee to a nonemployee and travel reimbursement for which the non-employee did not account to the district if both the fee and the reimbursement total \$600 or more .Report gross proceeds paid to an attorney where the fee cannot be separately determined.

A district's or charter school's financial management system should accumulate the payment information to vendors for services, including independent contractors, which should receive a Form 1099 for tax reporting purposes.

Penalties for failure to file Form 1099.

Unless reasonable cause can be shown, failure to file a correct information return by the due date may subject the school district to a penalty.

EMPLOYERS' RESPONSIBILITIES FOR WITHHOLDING

Although the employer is not required to verify the accuracy of the employee's withholding allowances, the *employer is responsible for the items listed below:*

1. Withhold tax based on the number of allowances claimed, and deduct additional dollar amounts requested.
2. Verify that the Form W-4 is signed, dated, and that the Social Security number is correct.
3. Reject invalid W-4s.
4. Notify employees by December 1 to submit an amended W-4 if the employee's allowances and/or marital status has changed.
5. Retain all Forms W-4 on file for at least four years from the time employee terminates or submits an amended W-4.
6. Send a copy of all Forms W-4 to IRS with the quarterly 941, or file magnetically (see IRS Pub. 1245 for specifications), for:
 - a) Employees claiming more than 10 withholding allowances
 - b) Employees claiming exemption from withholding if the employee earns more than \$200 per week.

ASSISTING EMPLOYEES WITH COMPLETION OF FORM W-4

It is important that the employer assist the employees in understanding the Form W-4, but it is equally important not to get placed in the role of the employee's tax advisor. Consulting with employees as to the number of allowances and marital status could make you liable for penalties for under-withholding. Steps that can be taken include:

1. Explain the Form W-4 and its purpose. Go over the worksheet for calculating allowances if needed; that is, explain the purpose of the worksheet and some of the terminology.

2. Provide IRS publications or videos. Publication 919, "Is My Withholding Correct?" and videos are available.
3. Make sure the employee understands the rules for being exempt from withholding, and that there is a civil penalty of \$500 for being under-withheld by claiming more allowances than the person is entitled to claim.
4. Remember the December 1 date for notification to all employees to revise their W-4 for any change in allowances or marital status.

DEPOSITING FEDERAL TAXES

Strict requirements as to when and how payroll taxes are deposited have been set by the federal government. The due dates are set without regard as to whether the deposits are made by electronic funds transfer (EFTPS) or with the Form 8109 coupon. Federal taxes include income tax, Social Security and Medicare tax.

Electronic Federal Tax Payment System (EFTPS)

Employers making more than \$200,000 in aggregate deposits for a calendar year must begin using EFTPS starting January 1 of the *second succeeding* calendar year. Thus, employers with more than \$200,000 in aggregate deposits for 2001 would be required to use EFTPS starting January 1, 2003. Employers required to use EFTPS in a prior year must continue to make electronic deposits using EFTPS.

Penalty

If you are required to use EFTPS and fail to do so, the district may be subject to a 10% penalty. For deposits made by EFTPS to be on time, you must initiate the transaction at least one business day before the date the deposit is due.

Deposit Schedules - EFTPS and Coupon Depositors

Two deposit schedules. Employers accumulating less than a \$2,500 tax liability during the quarter may make a payment with the Form 941. Otherwise, all employers are placed on one of the two schedules set by IRS. Notification by the IRS should be received in November as to which schedule must be followed. If no notification is received, the employer must determine the schedule by looking at the *lookback* rules. In effect, the rules *look back* at the total taxes reported on Form 941 in a four-quarter look back period beginning July 1 of the second preceding year and ending June 30 of the prior year.

Monthly deposit schedule. If a total of \$50,000 or less was reported on Form 941, line 11, during the look back period above, the monthly deposit schedule is followed. For monthly depositors:

Deposit by the 15th day of the following month all taxes withheld in the prior month.

Semiweekly deposit schedule. If a total of more than \$50,000 was reported on Form 941, line 11, during the look back period above, the semiweekly deposit schedule is followed. For semiweekly depositors:

<p>Taxes withheld for pay days on: Wednesday, Thursday, Friday Saturday, Sunday, Monday, Tuesday</p>		<p>Deposit by: The following Wednesday The following Friday</p>
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The employer must look at taxes accumulated during the *deposit period*. Depositors on a monthly schedule look at taxes accumulated during a calendar month. Semiweekly depositors must look at accumulations Wednesday through Friday, and Saturday through Tuesday.

Exceptions to the two deposit schedule rule

The \$100,000 one-day rule. An employer who accumulates \$100,000 or more in federal taxes must deposit those taxes by the next banking day. This requirement stands even though the employer may be designated as a semiweekly or monthly employer. Once the un-deposited taxes reach \$100,000, a deposit must be made by the next banking day following the day the \$100,000 limit is reached. The accumulation stops at the end of the day the limit is reached, and a new accumulation period begins the next day. A monthly depositor who reaches the \$100,000 limit changes to the semiweekly status *the next day* and remains on a semiweekly status for the rest of the calendar year and the next calendar year.

Note in the \$100,000 exception, an employer may follow the *next day* requirement and the semiweekly schedule within a calendar month, depending on how many payrolls are being issued and the dollar amount of taxes being withheld. For example, a school district may pay its professional staff once a month and the auxiliary staff semimonthly. For purposes of the look back, assume that the district is a semiweekly depositor. Payroll taxes and ending dates for October are:

October 14 (Tuesday)	\$95,000	Deposit Friday, October 17
October 24 (Friday)	\$325,000	Deposit Monday, October 27
October 30 (Thursday)	\$96,000	Deposit Wednesday, Nov. 5

Quarter ends in middle of cycle. If the quarter ends on a day other than Tuesday or Friday, payroll taxes covered by the return period just ending may be subject to one deposit obligation and taxes in the new return period may be subject to a separate deposit obligation. Make certain if two different quarters are involved, that two separate

forms for depositing or two EFTPS's are used noting the quarter to which the taxes apply.

Errors of prior period's effect on look back periods. Deposit requirements are determined based on the taxes as originally reported. Errors discovered subsequently and corrected in subsequent periods do not change the status of a monthly or semiweekly depositor. The adjustments for errors become a part of the new periods in which they are reported for purposes of the *look back* period.

Banking days. If a deposit is required by the next banking day, and payday falls on Friday, the deposit is considered timely if made the following Monday. Saturdays, Sundays, and official bank holidays are not considered banking days.

Special rules have been established for semiweekly depositors which allow these depositors at least three (3) banking days to make a deposit. If a holiday occurs during the three (3) banking days, depositors have an additional day to make the deposit. For example, if a payday falls on Tuesday, the following Friday would be the day required for deposit of payroll taxes. If Thursday of that week happens to be an official bank holiday, the deposit would not have to be made until Monday of the following week.

WAGES TO DECEASED EMPLOYEE

Wages paid after death in the *same calendar year* are subject to Social Security and Medicare taxes (if that employee is already subject to such taxes), but such wages paid to the estate of the deceased employee are exempt from income tax withholding. Do not report these wages as wages in Box 1 of the W-2; instead, report the amount paid to the estate on Form 1099-MISC (Box 3). Wages paid in the *next calendar year* are not subject to Social Security, Medicare or income tax. Again, these wages paid in the next calendar year to the deceased employees estate or beneficiary would be reported on Form 1099-MISC (Box 3).

WHEN WAGES BECOME TAXABLE

Wages are taxable when **paid**. Thus, wages paid in January are taxable in the new calendar year, even though the wages may have been partially earned in December of the prior year.

The employee is considered paid when he/she actually receives the paycheck. The employee is considered to have **constructively** received his/her pay if a paycheck has been made available to the employee, even if he/she does not actually take physical possession of the check until a later time.

VOLUNTARY PLANS FOR EMPLOYEES

Tax Sheltered Accounts

❖ 403b PLAN

A 403(b) plan, commonly referred to as a tax sheltered account (TSA), is a deferred compensation retirement arrangement. Only employees of public educational systems and employees of other specific tax-exempt organizations (generally, hospitals and non-profit groups) may utilize these programs. In order to qualify for a 403B plan, the entity must be a 501c3 non-profit organization.

Rules that apply to 401(a) are similar to 403(b) plans relating to taxability, excise taxes, rollovers, withholding, non-discrimination, minimum distributions, early distributions, and plan loans. Amounts contributed to a 403(b) plan may be invested in certain funding vehicles. Funding vehicles refer to the type of investment arrangement for the assets of a 403(b) plan. The funding vehicles for 403(b) plans are generally limited to:

- annuity contracts - 403(b)(1),
- custodial accounts – 403(b)(7){for regulated investment company stock},
- retirement income accounts – 403(b)(9){for churches}.

Plan Document

The Plan Document is a legal instrument outlining the program specifics of tax sheltered accounts and provides the rules that govern the terms and conditions under which a retirement account is operated.

It is strongly recommended that the school or charter school see the services and advice of a *qualified* third party administrator (TPA) to manage and maintain a Plan Document. The school administration or a third party administrator must authorize all transactions of the employee concerning tax sheltered accounts. Reporting and compliance issues can also be addressed by the TPA.

Eligible Employees for Tax Sheltered Accounts

- All employees who are directly or indirectly involved in the day-to-day operation of the school are considered eligible to participate in the 403(b). This includes more than just the faculty; it includes custodians, cafeteria workers, at-home teachers, and bus drivers. If **substitute teachers** work more than 20 hours per week they must be allowed to *participate if they so elect*. This direction is set forth in the *Plan Document*. Elected or appointed officials who are not education professionals are not eligible (i.e. a member of the school board, university regents or trustees.)

It is very important to understand that the program must be made available to all employees other than those listed above or the 403(b) arrangement will violate the “universal availability” rule and the entire arrangement will be considered void.

403(b) plans are commonly funded in whole or in part through salary reduction contributions. Salary reduction contributions under a 403(b) plan are subject to specific requirements such as annual contribution limits, nondiscrimination rules, and withdrawal restrictions.

Salary reduction contributions are defined as contributions made by an employer as a result of an agreement with an employee to take a reduction in salary or to forego an increase in salary, bonuses or other wages. Salary reduction contributions are:

- often referred to as elective deferrals because they overlap with the definition of elective deferrals under § 402(g).
- made pursuant to a salary reduction agreement.

Distributions/Withdrawals/Rollovers

Generally, a distribution cannot be made from a 403(b) account until the employee:

- a. Reaches age 59 ½,
- b. Dies,
- c. Becomes disabled,
- d. Separates from employment or
- e. In the case of salary reduction contributions, encounters financial hardship.

If the funds are withdrawn due to one of the “distribution events” listed above, the withdrawal will generally not be subject to a 10% penalty in addition to the income tax. *Item (d) listed above has additional requirements in order for the employee not to be penalized.* The separation occurs after the participant attains age 55 and the distribution is in substantially equal payments.

In most cases, the payments made available from the 403(b) account are taxable in full as ordinary income. In general, the same tax rules apply to distributions from 403(b) plans that apply to distributions from other retirement plans. Direct distributions to a participant must withhold 20% for income tax purposes. Even if the distribution is to be rolled over the withholding applies. Only direct rollovers are exempt from the 20% withholding. These rules are explained in IRS Publication 575. IRS Publication 575 also discusses the additional tax on early distributions from retirement plans.

School district or charter school personnel shall contact the payroll office staff and plan representatives for more specific information and reporting requirements.

❖ Section 457 Plans

- Qualified deferred compensation plans established by state and local governments and tax-exempt employers. The arrangements are governed by Section 457 of the Internal Revenue Code (the, "IRC").
- A deferred compensation plan postpones payment of current compensation until a future date in exchange for the employer's promise to pay the benefit at some future date. This may also take the form of a benefit promised at some future date by the employer that does not involve a reduction of the employee's current compensation.
- See introduction on page 1-2 of Section 457 text by Cheryl Press for additional explanations.
- Rules for 457 plans were changed significantly by the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). The provisions of EGTRRA are generally effective for years beginning after December 31, 2001.

Benefits of Section 457 Plans - Employee and the Employer

- Deferral is not subject to Federal Income Tax at time of deferral.
- FICA applies if employee is otherwise subject to FICA.

Agreement providing for deferral must be entered into before the beginning of the month, except for the month during which the participant first becomes an employee – See page 11 of Section 457 text by Cheryl Press for additional explanations. – FINAL REGULATIONS 1.457-4(b)

PAYROLL RELATED RESOURCES AND REFERENCES:

Internal Revenue Service website: www.irs.gov

Forms & Publications.

Download and print online: Instructions for Forms W-2 and W-3

Pub. 15 Employer's Tax Guide

Pub. 15-A Employer's Supplemental Tax Guide

Pub. 15-B Employer's Tax Guide to Fringe Benefits

Pub. 957 Reporting Back Pay & Special Wage Payments to SSA

Cheryl Press

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